



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

September 9, 2014

1409-VU-03

Exhibit 1

Petition Number: 1409-VU-03

Subject Site Address: 3002 E State Road 32 (the "Property")

Petitioner: Renee Fritz (the "Petitioner")

Request: The Petitioner is requesting a Variance of Use to the Westfield-Washington Township Zoning Ordinance (the "Zoning Ordinance") for the property commonly known as 3002 E State Road 32, Westfield, Indiana 46074. The request is to allow a pet obedience school in the Local Business (LB) District (WC 16.04.060).

Current Zoning: LB (Local Business) District

Current Land Use: Retail/Vacant

Approximate Acreage: 6.21 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Existing Conditions Exhibit
4. Site Plan
5. Deed and Legal Description
6. Petitioner's Statement of Intent

Staff Reviewer: Jeffrey M. Lauer, Associate Planner

PETITION HISTORY

This petition is scheduled to receive a public hearing at the September 9, 2014, Board of Zoning Appeals (the "BZA") meeting.

If the Board of Zoning Appeals approves the requested Variance of Use, then the use and site would be required to obtain Construction Design Release from the State of Indiana and an Improvement Location Permit from the City of Westfield.



ANALYSIS

Location: The Property is 6.21 acres +/- in size and generally located on the northwest corner of State Road 32 and Grassy Branch Road (see Exhibit 2). The Property is zoned LB (Local Business) District.

The Property is improved with a single in-line tenant structure (see Exhibit 3 and Exhibit 4). Surrounding properties include retail and residential uses zoned LB (Local Business), LB-PD (Local Business – Planned Development), or Oak Manor PUD Districts and SF-4 (Single Family – 4) respectively.

Land Use: As summarized in Exhibit 6 (the Petitioner’s “Statement of Intent”), the Petitioner is requesting a Variance of Use to allow a pet obedience school.

As indicated in the Statement of Intent, all pet obedience activities will occur inside the building. The proposed interior build-out will also accommodate ancillary retail related to pet supplies. The Statement of Intent further describes the operational characteristics of the proposed use.

The Zoning Ordinance states that the purpose of the LB District¹ is to accommodate “...a local or neighborhood residential community with retail services, convenience shopping, and professional services to meet the daily needs of the community.” The LB District currently permits uses that are comparable to the proposed use, such as: Pet Grooming, Pet Shops, and Veterinarians.

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan identifies this Property within the “Local Commercial”² land use classification.

The Comprehensive Plan contemplates this area will “...provide goods and services used by nearby residents on a day-to-day basis, as opposed to attracting customers or clients from a large geographic area.” The Comprehensive Plan acknowledges that appropriate land uses in business parks are: (i) banks; (ii) beauty salons; (iii) drug stores; (iv) convenience stores; (v) automobile service stations; (vi) video stores; (vii) dry cleaners; (viii) restaurants; and (ix) supermarkets.

The development and implementation policies of the Comprehensive Plan for this area includes, among other policies:

- Locate local commercial development only in planned centers and only on streets classified as arterials or on frontage roads as depicted on the Land Use Concept Map

¹ WC § 16.04.050.D of the Zoning Ordinance.

² Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 24).



- Require commercial uses to be dispersed, but also to be focused on key nodes, avoiding strip patterns, which are inefficient from an access standpoint
- Require effective buffering between commercial uses and adjacent residential uses
- Prevent commercial uses from encroaching into residential areas

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration to grant a Variance of Use. This petition is scheduled to receive its public hearing at the September 9, 2014, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Variance of Use: The Board of Zoning Appeals shall approve or deny variances of use of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.4 only upon a determination in writing that:

1. *The use will not be injurious to the public health, safety, morals, and general welfare of the community;*
2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;*
3. *The need for the variance arises from some condition particular to the property involved;*
4. *The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and*
5. *Does not interfere substantially with the comprehensive plan.*

RECOMMENDATION

Findings of Fact: A Variance of Use may be approved under Indiana Code § 36-7-4-918.4 and the Westfield-Washington Township Zoning Ordinance (WC) § 16.04.170(E)(2) only upon a determination that:

1. *The use will not be injurious to the public health, safety, morals, and general welfare of the community:*



Finding: It is unlikely that approving the requested Variance of Use would be injurious to the public health, safety, morals, and general welfare of the community because the use as proposed is consistent with the adjacent retail/commercial character of the area and reasonably compatible with existing permitted uses in the LB District, e.g., Pet Shops and Pet Grooming. The use and property will otherwise comply with or exceed the applicable standards of the LB District.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent properties will be affected in a substantially adverse manner. The proposed Variance of Use should not have a negative impact on surrounding properties because: (i) the use is utilizing existing improvements which are consistent with and compatible with the character of the surrounding area; (ii) all pet obedience activities will occur within the Property, (iii) the operation and design of the use are intended to mitigate the impact on surrounding properties; (iv) the use is compatible with other permitted uses of the LB District.

3. *The need for the variance arises from some condition particular to the property involved:*

Finding: The Zoning Ordinance does not allow Pet Obedience within the LB District. However, related uses (e.g., Pet Grooming, Pet Shops, and Veterinarians) are permitted within the LB District. The condition of this property is peculiar in that it is one tenant in a larger in-line tenant structure with surrounding commercial/retail uses. Thus, the use is compatible with other permitted commercial uses within the in-line tenant structure and potential conflicts resulting from other future and adjacent uses should be diminutive.

4. *The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought:*

Finding: Strict adherence to the Zoning Ordinance would allow related uses (e.g., Pet Grooming, Pet Shops, and Veterinarians); however, would not permit the reasonably related Pet Obedience use.

5. *Does not interfere substantially with the comprehensive plan:*

Finding: The Westfield-Washington Township Comprehensive Plan identifies this property within the "Local Commercial" land use classification. As such, the proposed use is consistent with the Comprehensive Plan's policies and objectives for these land use classifications and does not interfere substantially with the Comprehensive Plan.



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The Board of Zoning Appeals shall approve, approve with conditions, or deny conditional uses from the requirements of the Zoning Ordinance. The Board of Zoning Appeals may impose reasonable conditions as a part of its approval.

The Department recommends approving 1409-VU-01 based on the findings of this Staff Report with the following conditions:

1. The Petitioner shall record an Acknowledgement of Variance with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Economic and Community Development Department prior to approval of an Improvement Location Permit for the Property.
2. The use shall be limited in scope and operation to the Petitioner's Statement of Intent, attached hereto and incorporated herein as Exhibit 6. In addition, the requested variance of use shall not exceed 2,000 square feet. Any expansion or substantial alteration to the scope and operation of the Variance of Use, as determined by the Director, shall require approval by the Board of Zoning Appeals.
3. The use shall be developed and operated in substantial compliance to the Petitioner's Narrative, subject to review and approval for compliance with applicable ordinances.